

REMARKS/ARGUMENTS

As explained more fully below, Applicant has amended independent Claims 68, 73 and 74, and dependent Claims 70-71 depending from Claim 68, to more clearly define the claimed invention. Applicant requests reconsideration of Claims 68-74 in view of the Amendments and Remarks set forth herein.

Abstract

In the non-final Office Action, the Examiner objected to the Abstract. Applicants submit the proffered amendments to the Abstract to correct the informalities noted by the Examiner. The Examiner's assistance in addressing these issues is greatly appreciated.

The Rejections Under 35 U.S.C. § 112 Are Overcome

The Examiner rejected Claims 68-74 under 37 U.S.C. § 112, second paragraph. First, the Office Action asserts that one of ordinary skill in the art would be unable to ascertain the requisite scope of the recitation "searching for optimal ones of the set of said portfolios of assets" in independent Claim 68. Applicants have amended Claim 68 to clarify that the invention comprises determining at least one optimal searching distance in the fitness landscape representation and searching for ones of the set of portfolios of assets at the at least one optimal searching distance, wherein portfolios within the optimal searching distance range comprise optimal ones of the portfolios of assets. Applicant submits that the rejection of independent Claim 68 under 37 U.S.C. § 112, second paragraph, should be withdrawn.

Second, the Office action asserts that there is insufficient antecedent basis for the recitation "the difference" in Claim 70. Applicants have amended Claim 70 to clarify that the invention comprises identifying a first portfolio of the portfolio of assets and a second portfolio of the portfolio of assets; and determining a difference between the vector of the first portfolio and the vector of second portfolio. Applicant submits that the rejection of dependent Claim 70 under 37 U.S.C. § 112, second paragraph, should be withdrawn.

The Rejection Under 35 U.S.C. § 101 is Overcome

The Office Action rejects Claims 68-72 under 35 U.S.C. § 101, asserting that the claims are not tied to a particular machine or apparatus nor do they transform a particular article into a different state or thing. Applicants have amended independent Claims 68 to positively recited the steps of providing a computer having a computer-readable media, wherein the computer-readable media has an application stored thereon. As noted in MPEP 2106.01, a claimed computer-readable medium encoded with a computer program is a computer element which defines structural and functional interrelationships between the computer program and the rest of the computer which permit the computer program's functionality to be realized, and is thus statutory. Accordingly, Applicants respectively request that the rejection under 35 U.S.C. § 101 be withdrawn.

Claim Rejections Under 35 U.S.C. § 103 Are Overcome

Claims 68-74 were also rejected under 35 U.S.C. § 103(a) as unpatentable under U.S. Patent Number 5,799,287 to Dembo. To the extent the rejection would be applied against the claims, as amended, Applicants would respectfully transverse.

Applicants submit that the invention disclosed and claimed in the present application and the invention disclosed in Dembo are fundamentally different. As noted in the Office Action dated October 14, 2008, the present invention is directed to a method, system and computer program product for optimizing a set of existing portfolios. In contrast, Dembo discloses a method for determining an optimal replicating portfolio for a given target portfolio, *i.e.*, for replicating specific characteristics of a target portfolio. In this regard, a user in Dembo defines a target portfolio to be replicated. This portfolio of Dembo is one that uses risk versus reward to decide which risks may be worth pursuing to reap the highest profit. This criteria is then applied to establish a portfolio that replicates the user-defined target portfolio. As noted in the Office Action dated October 14, 2008, putting together a portfolio of optimized assets, *i.e.*, the portfolios does not exist prior to the optimization, is independent and distinct from an already existing set of portfolios that are then being optimized.

Furthermore, nowhere does Dembo disclose “executing a set of economic models” and “determining a fitness landscape with respect to a set of portfolios of assets by extracting a set of observables from the execution of the set of economic models,” as recited in amended

independent Claims 68, 73 and 74. Rather, Dembo discloses defining the target portfolio from user inputted instructions and data. Thus, not only does Dembo not execute a set of economic models and then extract a set of observables from the execution of the set of economic models to determine the fitness landscape, but Dembo does not determine the fitness landscape with respect to a set of existing portfolios of assets. Dembo is merely looking to replicate the user defined portfolio.

Accordingly, it is respectfully submitted that independent Claims 68, 73 and 74, as amended, and the claims depending therefrom, are patentable over Dembo and that this rejection should be withdrawn.

* * * * *

In view of the amended claims and the remarks presented above, it is respectfully submitted that all of the present claims of the application are in condition for immediate allowance. It is therefore respectfully requested that a Notice of Allowance be issued. The Examiner is encouraged to contact Applicant's undersigned attorney to resolve any remaining issues in order to expedite examination of the present application.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 13-4365.

Respectfully submitted,

/hbw/

Henry B. Ward, III
Registration No. 42,212

Customer No. 24239
Moore & Van Allen, PLLC
100 Tryon Street, North Suite 4700
Charlotte, NC 28202
Tel Charlotte Office (704)331-1000
Fax Charlotte Office (704)339-5800

Appl. No.: 09/868,981

Amdt. Dated 10/02/09

**ELECTRONICALLY FILED USING THE EFS-WEB ELECTRONIC FILING SYSTEM
OF THE UNITED STATES PATENT & TRADEMARK OFFICE ON OCTOBER 2,
2009.**